

The holding of semiweekly bingo games by a labor organization, exempt from Federal income tax, is a profit-making enterprise not related to the exempt purposes of the organization and, therefore, constitutes an unrelated trade or business within the meaning of section 513 of the Internal Revenue Code of 1954.

The income derived therefrom is subject to the tax imposed on unrelated business taxable income by section 511 of the Code.

Advice has been requested whether a labor organization, exempt from Federal income tax under section 501(c)(5) of the Internal Revenue Code of 1954, is taxable under section 511 of the Code on income received from the operation of semiweekly bingo games.

The organization under consideration was incorporated to create a medium whereby certain members of organized labor may buy or erect and maintain a building in which members of organized labor may hold meetings for educational and social purposes. The organization owns and maintains a building in which are housed various local union offices. Considerable expense is incurred in the upkeep of the building. In order to provide additional funds for such maintenance expense, the organization conducts semiweekly bingo games which are open to the general public as well as to union members.

Section 511(a) of the Code imposes a tax on the unrelated business taxable income of certain organizations, including labor organizations, which are otherwise exempt from tax under section 501(a) of the Code.

Section 1.513-1 of the Income Tax Regulations provides, in part, that the income of an exempt organization is subject to the tax on unrelated business income only if two conditions are present with respect to such income. The first condition is that the income must be from a trade or business regularly carried on by the organization. The second condition is that the trade or business must not be substantially related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable or other purpose or function constituting the basis for its exemption from tax.

The regulations further provide that a trade or business is regularly carried on when the activity is conducted with sufficient consistency to indicate a continuing purpose of the organization to derive some of its income from such activity. An activity may be regularly carried on even though its performance is infrequent or seasonal. Ordinarily, a trade or business is substantially related to the activities for which an organization is granted exemption if the principal purpose of such trade or business is to further, other than through the production of income, the purpose for which the organization was granted

exemption.

In *Help the Children, Inc. v. Commissioner*, 28 T.C. 1128, the court held that an organization whose fund-raising activities consisted of bingo games for members and their guests was engaged in a business or commercial activity for profit.

In view of the foregoing, it is held that the conducting of bingo games by the instant organization constitutes the carrying on of a trade or business; that by reason of the semiweekly conduct of such games the business is regularly carried on; and that the conduct of the bingo games for profit is patently unrelated to the basis for exemption of the organization, other than through the accrual of earnings to help defray expenses. Accordingly, the income derived therefrom is taxable as unrelated business taxable income under the provisions of section 511 of the Code.